REMARKS

In the Office Action mailed January 13, 2005, claims 1, 2, 8, 9, 11 and 17 were rejected under 35 U.S.C.§ 102(b) as being anticipated by Webb, et al. (U.S. Patent No. 4,676,241).

Claims 3-7, 12-16 and 18 were rejected under 35 U.S.C.§ 103(a) as being unpatentable over Webb, et al. in view of Palmer (U.S. Patent No. 6,494,203).

Claims 1, 2, 8, 9, 11 and 17 were rejected under 35 U.S.C.§ 103(a) as being unpatentable over Webb, et al. in view of Lorenzen, et al. (U.S. Patent No. 5,730,123).

Claims 3-7, 12-16 and 18 were rejected under 35 U.S.C.§ 103(a) as being unpatentable over Webb, et al. in view of Lorenzen, et al. and further in view of Palmer.

Applicants respectfully submit that claim 1 defines over Webb, et al. Respectfully, Webb, et al. does not disclose a connector for a respiratory assembly that has a body that includes couplings on the first and second ends in which a passage extends through the couplings of the first and second ends so that the passage changes direction at a single constant angle of approximately 120° through the entire body.

Webb, et al. discloses a resilient plastic swivel connector 15 that has a first end piece 19 engaged with a central member 31. A second end piece 45 is engaged with the central member 31 on an opposite end from the first end piece 19. Both the first end piece 19 and the second end piece 45 are rotatable on the central member 31 (see Webb, et al. at col. 3, ll. 14-19 and Figures 4 and 5). The first end piece 19 is angled (see Webb, et al. at col. 2, ll. 49-55). This configuration of the swivel connector 15 allows the swivel connector 15 to be placed into multiple positions between the two positions shown in Figures 4 and 5 of Webb, et al. so as to allow the patient to move relative to the hoses 18 without painful movement of the insert tube 11 (see Webb, et al.

at col. 4, ll. 13-17). As such, the swivel connections along with the angled end piece and the angled central member allow rotational and translational movement of the supply tube relative to the insert tube (see Webb, et al. at col. 1, ll. 54-58). Webb, et al. is explicitly directed towards a swivel connector 15 that allows for a swivel connection that includes axial translation so as to realize an improvement over prior swivel couplings that allowed only rotational movement (see Webb, et al. at col. 1, ll. 31-40).

Referring now to Figure 4 of Webb, et al., the passageway that extends through the first end piece 19 changes direction at an angle of 135° and extends through the central member 31 changing direction again therein at an angle of 135°. The passageway then extends through the second end piece 45 without changing direction. As such, the passageway changes direction **twice** when going through the swivel connector 15. Figure 5 of Webb, et al. also shows the passageway changing direction at 135° twice through the swivel connector 15.

Claim 1 of Applicants' application calls for a passageway to extend through the couplings of the first and second ends so that the passage changes direction at a single constant angle of approximately 120° through the entire body. As set forth in claim 1, the ends of the body include the couplings and as such the passage extends through the entire body while changing direction at a single constant angle of approximately 120°. This structure is not disclosed in Webb, et al. which instead calls for the passage to change direction twice through the swivel connector 15.

As stated, claim 1 was also rejected under 35 U.S.C. § 103(a) over Webb, et al. in view of Lorenzen, et al. Specifically, the Office Action mailed January 13, 2005 stated in paragraph 6 that Webb, et al. disclosed all of the elements of claim 1 of Applicants' application with the exception of an angle of 120°. The Office Action

therefore incorporated a 120° angle from Lorenzen, et al. into the swivel connector 15 of Webb, et al. so as to obtain this feature (see paragraph 6 of the Office Action of January 13, 2005).

Applicants respectfully submit that claim 1 defines over the combination of Webb, et al. and Lorenzen, et al. Specifically, the combination does not disclose all of the claim elements set forth in claim 1 of Applicants' application. Modification of Webb, et al. so that the obtuse angle 43 was 120° instead of 135° would still not cure the deficiency of Webb, et al. in failing to disclose a passage that changes direction at a single constant angle through the entire body. As discussed, claim 1 of Applicants' application calls for the body to include a first and second end that each include a coupling. The passage extends through the couplings of the first and second ends so as to extend through the entire body while changing direction at a single constant angle.

If the obtuse angle 43 in Webb, et al. were changed to be 120°, the resulting device would still be a swivel connector 15 with a passageway that changes direction twice through the first end piece 19, central member 31 and second end piece 45. In order to establish *prima facie* obviousness of a claimed invention, all of the claim elements must be taught or suggested by the prior art. Presently, the cited references do not teach or suggest a passage that changes direction at a single constant angle through the entire body. Webb, et al. and the combination of Webb, et al. and Lorenzen, et al. teach a swivel connector 15 with a passage that changes direction twice through the entire swivel connector 15.

Additionally, it would not have been obvious for one having ordinary skill in the art to modify Webb, et al. or to modify the combination of Webb, et al. and Lorenzen, et al. so as to arrive at the connector set forth in claim 1 of Applicants' application. Webb,

et al. is specifically directed towards a swivel connector that allows for translational movement so as to provide for an improvement over prior swivel couplings that afforded only rotational movement in order to eliminate painful movement of the connector 15 and increase patient comfort (see Webb, et al. at col. 1, ll. 31-40 and 54-58). Translational movement is made possible by including the angled end piece 19 and the angled central member 31 (see Webb, et al. at col. 1, ll. 54-55). As such, the entire goal of Webb, et al. can only be achieved upon incorporating a **pair** of angles through the swivel connector 15 so that the passageway changes direction twice therethrough.

Modification of Webb, et al. so that the passage changes direction at a single constant angle therethrough would completely defeat the entire point of Webb, et al. because, as stated, the desired translational movement would no longer be possible. If the proposed modification would render the reference being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. Modifying Webb, et al. so that the passage changes direction at a single constant angle would completely defeat the goal of Webb, et al. and make it unsatisfactory for its intended purpose because the benefits from translational movement would no longer be realized. As such, Applicants respectfully submit that claim 1 defines over Webb, et al. and the combination of Webb, et al. in view of Lorenzen, et al. and is in condition for allowance. Further, all claims that depend from claim 1 (claims 2-8) are also in condition for allowance. The rejections to claims 2-8 are made moot due to the allowance of claim 1.

As stated, claim 9 was also rejected under 35 U.S.C. § 102(b) over Webb, et al. and under 35 U.S.C. § 103(a) over Webb, et al. in view of Lorenzen, et al. Applicants have amended claim 9 in order to call for a connector with a first section that has a first

axis that extends through the entire first section and for a second section with a second axis that extends through the entire second section. Claim 9 also calls for the first and second axes to be oriented so that a single constant angle of about 120° exists between the first and second axes. Claim 9 calls for the first section to be rotatably engageable with a first member of the respiratory assembly, and claim 9 calls for the second section to be rotatably engageable with a second member of the respiratory assembly.

Referring to Figure 4 of Webb, et al., the swivel connector 15 includes a first end piece 19 that is rotatably engageable with an insert tube 11. Flange 33 of the central member 31 is not rotatably engageable with the insert tube 11 because the flange 33 is not configured for contacting the insert tube 11. Likewise, the swivel connector 15 includes a second end piece 45 that is rotatably engageable with the supply tube adapter 17. The flange 35 of the central member 31 is not configured to be rotatably engageable with the supply tube adapter 17 because the flange 35 is not configured for engagement with the supply tube adapter 17. As such, if only a portion of the central member 31 were designated as the first section, and if only a portion of the central member 31 was designated as the second section the resulting device of Webb, et al. would not disclose the structure called for in claim 9 of Applicants' application. If the insert tube 11 and the supply tube adapter 17 were rotatably engageable with the central member 31 so that the central member 31 was configured for directly contacting the insert tube 11 and the supply tube adapter 17, the resulting device would not be capable of achieving translational movement as specifically called for in Webb, et al. because an angled end piece and an angled central member would not be present.

If a portion of the central member 31 and the first end piece 19 were designated as the first section, and if a portion of the central member 31 and the second end piece

45 were designated as the second section in Webb, et al., the resulting device would still not achieve the structure set forth in claim 9 of Applicants' application. In such an instance, the first section would not include a first axis that extends through the entire first section while the second section includes a second axis that extends through the entire second section such that the first and second axes were oriented at a single constant angle of about 120° between one another. Webb, et al. explicitly calls for the passage through the swivel connector 15 to change angular direction twice therethrough so that translational movement is achievable. Such a design would be incapable of having first and second axes as disclosed in claim 9 that are oriented at a single constant angle of about 120° to one another. The swivel connector 15 of Webb, et al. must necessarily include three axes between the first and second sections. The three axes are a result of having an angled first end piece 19 and an angled central member 31. As such, Applicants respectfully submit that claim 9 defines over Webb, et al.

As stated, claim 9 was also rejected over Webb, et al. in view of Lorenzen, et al. Applicants respectfully submit that claim 9 defines over the combination of Webb, et al. and Lorenzen, et al. for essentially the same reasons as discussed above with respect to the allowability of claim 1 over Webb, et al. in view of Lorenzen, et al. Specifically, even if one were to incorporate a 120° angle from Lorenzen, et al. into the swivel connector 15 of Webb, et al., the resulting device would not achieve the structure of claim 9 that calls for a first axis to extend through the entire first section and a second axis to extend through the entire second section such that a single constant angle of about 120° exists between the two. Additionally, it would not have been obvious for one having ordinary skill in the art to modify Webb, et al. in view of Lorenzen, et al. so as to

achieve the structure of claim 9 for essentially the same reasons as discussed above with respect to claim 1.

As such, Applicants respectfully submit that claim 9 defines over Webb, et al. and the combination of Webb, et al. in view of Lorenzen, et al. and is in condition for allowance. Further, all claims that depend from claim 9 (claims 11-17) are also in condition for allowance. The rejections to claims 11-17 are made moot due to the allowance of claim 9.

As stated, claim 18 was rejected under 35 U.S.C. § 103(a) over Webb, et al. in view of Palmer. Paragraph 5 of the Office Action of January 13, 2005 indicated that Webb, et al. disclosed a respiratory connector but did not disclose swivel connectors. The Office Action stated that it would have been obvious for a person having ordinary skill in the art to modify the connectors of Webb, et al. in view of Palmer so as to include ribs and sleeves. Applicants respectfully submit that claim 18 defines over the combination of Webb, et al. and Palmer for the combination does not disclose a connector with a passageway that extends through the first sleeve, second sleeve and body so that the passageway changes direction at a single constant angle of about 120° through the entire first sleeve, the entire second sleeve and the entire body.

Modification of the first end piece 19 and the second end piece 45 in Webb, et al. upon viewing Palmer would still not result in the connector set forth in claim 18 of Applicants' application. In such an instance, the first end piece 19 and the second end piece 45 would simply be provided with ribs and annular sleeves. This modification would not change the overall structure of Webb, et al. that is specifically directed towards a passageway that changes angles **twice** through the swivel connector 15. To establish *prima facie* obviousness of the claimed invention, all of the claim elements

must be taught or suggested by the prior art. The combination of Webb, et al. and Palmer does not teach a connector with a passageway that changes direction at a single constant angle of about 120° through the entire first sleeve, the entire second sleeve and the entire body. Additionally, Applicants respectfully submit that it would not have been obvious for one having ordinary skill in the art to modify the combination of Webb, et al. and Palmer so as to achieve the structure set forth in claim 18 of Applicants' application for essentially the same reasons as discussed above with respect to Webb, et al. and Lorenzen, et al. Specifically, the entire point of Webb, et al. is to provide a swivel connector 15 that includes a passageway that changes direction twice therethrough so that translational movement is realized.

Also in the Office Action, claim 18 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Webb, et al. in view of Lorenzen, et al. and further in view of Palmer. Specifically, the combination of Webb, et al. in view of Lorenzen, et al. was modified upon viewing Palmer so as to arrive at a connector with the disclosed bell housings, sleeves and ribs. Applicants respectfully submit that claim 18 defines over the combination of Webb, et al., Lorenzen, et al. and Palmer as the combination of references does not disclose a connector with a passageway that changes direction at a single constant angle of about 120° through the entire first sleeve, the entire second sleeve and the entire body. As previously discussed, Webb, et al. is specifically directed towards a connector with a passageway that changes direction twice through the connector so that translational movement is achieved. It would not have been obvious or proper for one having ordinary skill in the art to modify Webb, et al. upon viewing either Lorenzen, et al. or Palmer so that this feature was modified in order to achieve the structure set forth in claim 18 of Applicants' application. As previously

discussed with respect to claim 1, the entire point of Webb, et al. is to provide for a connector that affords translational movement so that better patient comfort is realized. If a proposed modification would render the reference being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. Presently, modification of Webb, et al. so that the passageway therethrough changes direction at a single constant angle would make Webb, et al. unsatisfactory for its intended purpose because it would not be able to achieve translational movement. As stated, the translational movement in Webb, et al. is specifically afforded by both an angled end piece 19 and an angled central member 31 so that the passageway changes direction twice (see Webb, et al. at col. 1, ll. 54-57).

As such, Applicants respectfully submit that claim 18 defines over Webb, et al. in view of Palmer, and that claim 18 defines over Webb, et al. in view of Lorenzen, et al. and in view of Palmer and is in condition for allowance.

With the present Amendment, Applicants submit that all pending claims are allowable and that the application is in condition for allowance. Favorable action thereon is respectfully requested. The Examiner is encouraged to contact the undersigned at his convenience to resolve any remaining issues.

Respectfully submitted,

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April 12, 2005
Date

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